
STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2013-07

Legistar #: 20130139

Board of Zoning Appeals Hearing: Monday, February 25, 2013 – 6:00 p.m.

Applicant: Sentry Security Systems, LLC
Attn: Donald McLellan, Cindy Gsell, Michael Pate
121 Executive Center Drive, Suite 230
Columbia, S. C. 29210

Property Owner: J. Steven Towe
Cornerstone Wall Systems, Inc.
1650 Williams Drive
Marietta, GA 30066

Address: 1650 Williams Drive

Land Lot: 07820 **District:** 16 **Parcel:** 0220

Council Ward: 5 **Existing Zoning:** LI (Light Industrial)

Special Exception / Special Use / Variance(s) Requested:

1. Variance to allow a 6 ft. chain link fence in the front yard. [Section 710.04(E)]
2. Variance to allow an electrically charged fence to be within 6 ft. of the ground level and allow the electrical charge to exceed more than 20" above the height of the fence. [Section 710.04(G)]
3. Variance to increase the height of an electrically charged fence in the front yard from 4 ft. to 10 ft.; [Section 710.04(E)]
4. Variance to increase the height of an electrically charged fence in the side and rear yard from 8 ft. to 10ft. [Section 710.04(E)]

Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

Criteria:

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES









Recommended Action:

Sentry Security Systems, LLC., petitioner for owner, Cornerstone Wall Systems Inc., is requesting variances to utilize the newly installed electrically charged fence located at 1650 Williams Drive. The property is zoned LI (Light Industrial) and is located on Williams Drive. Williams Drive terminates at Bells Ferry Road at one end and at Canton Road Connector at the opposite end. Canton Road Connector runs along the southeast side yard of the subject property with an approximately 90 ft. grassed right-of-way buffer. The lot is very visible from the Canton Road Connector, which is of concern of the petitioners. Properties along Williams Drive that are located adjacent to the Canton Road Connector are predominately zoned LI (Light Industrial), although there are some retail uses zoned CRC (Community Retail Commercial) near its intersection at the Canton Road Connector.

TruGreen Land Care is a lawn and landscaping service company that is a tenant of the property owner, Cornerstone Wall Systems Inc. TruGreen has been a tenant for approximately one year. After moving into their new location, they installed a 10 ft. electrically charged fence around the perimeter of the subject property to protect them from any theft and vandalism. The electrically charged fence sits approximately 4.5 inches inside the existing chain link fence, which is over 5 ft. in height. The Code Enforcement Division cited the tenant, TruGreen, for having a chain link fence and for having an electrically charged fence surrounding the perimeter of the property, both of which did not meet City regulations. Section 710.04 (E) and (G) on Fences of the City Code states the following:

Section 710.04(E)

Fences or walls located in the front yard of any parcel of land located on arterial or collector streets on property zoned LI, HI, or PID shall have a maximum height of 4 feet, shall not be constructed within 2 feet of the public right-of-way, and shall be ornamental or decorative in nature. In all other instances, fences and walls shall be no more than 8 feet in height and shall not be constructed within 2 feet of a public right-of-way.

Section 710.04(G)

A fence equipped with or having barbed wire, spikes, or similar device, or electric charge shall not contain said devices within 6 feet of the ground level. No fence shall have barbed wire, spikes, or similar devices, or an electric charge in a yard fronting a street on property zoned for residential, commercial, central business district, or office use. Barbed wire, spikes, or similar devices, or an electric charge on fences shall not exceed more than 20 inches above the height of the fence.

The following information has been provided by the applicant: *the security system is known as the Electric Guard Dog (EGD), which is a 10 ft. tall, electrically charged fence powered by 12V marine battery which is charged by a solar panel. An energizer retains the voltage for 1.3 seconds and thus when released it is boosted to 7,000 volts of a totally safe, pulsed electrical charge. Signage is posted a minimum of every 50 ft. to warn of the electric fence. However, the safety of the shock is not advertised and therefore, due to our inherent fear of electricity, most criminals will not take a chance in breaching the perimeter. With this, the EGD proactively deters crime unlike cameras, beams and alarms that react to a crime in commission.*

Additionally, the following information regarding the safety of the fence has been provided:

- *Totally independent of city electrical grid – does not plug into the county’s grid*
- *Powered by 12V marine battery and solar panel*
- *Totally enclosed inside perimeter chain link fence*
- *Only installed to secure non-residential properties*
- *Pulsed current, shock delivered every 1.3 seconds for one-ten thousandth of a second*
- *Shortness of duration makes it 100% medically safe*

The petitioner and TruGreen have requested the variances due to their concern regarding the valuable inventory of landscaping materials and equipment on the property, due to its visible location along the Canton Road Connector. They would like to keep the EGD security system that has been installed and currently exists.

While the security of a business is a priority, the location of the subject property with frontage on two busy roadways, and near the intersection of a third roadway, makes the property visible from every direction. Due to the unique circumstances associated with this property, ***Staff recommends approval of variance #2, #3 and #4. However, Staff recommends denial of variance #1, and recommends that the applicant be required to remove the chain link fence and erect a 6 ft. privacy fence along both the frontage of the Williams Drive right of way and along the frontage of the Canton Road Connector right of way.***